

REMARKS

Claims 17, 23-27, and 30-32 are presently pending in the application. Claims 18-22 and 28-29 have been canceled, and rejections of those claims are therefore moot. Reconsideration is respectfully requested. It is unclear why the Examiner believes the claims have been misnumbered.

Double Patenting

Claims 25-31 have been rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 11-12 of copending application no. 11/374,720. Upon agreement of allowable subject matter with the Examiner, applicants will file a terminal disclaimer removing the double patenting rejection.

Rejections under 35 USC §102

Claims 17, 19-23, and 26-31 have been rejected under 35 USC §§102(b) and 102 (e) as being anticipated by Bold et al. Based on a conversation with the Examiner, the Bold et al which is the subject of the 102 (b) and (e) rejections are Canadian Patent No. 2,396,590, and WO 03/040102, respectively. Applicants have amended the claims to indicate that R group appended to the pyridine ring cannot be hydrogen. Neither references disclose such a compound. As such, neither anticipate the presently claimed invention. The rejections are traversed.

Rejections under 35 USC §103

The Examiner has also rejected claims 17, 19-23, and 26-31 under 35 USC 1§03 (a) as being obvious over WO 03/040102 to Bold and Canadian Patent No. 2,396,590 to Manley.

In applying the test for obviousness to chemically similar structures, the Court of Appeals Federal Circuit recently laid out a standard in *Takeda Chemical Industries Ltd. v. Alphapharm Pty. Ltd*, 83 USPQ2d 1169 (Fed. Cir. 2007). The Court stated, "in many cases involving new chemical compounds, it remains necessary to identify some reason that would have led a chemist to modify a known compound in a

structurally related compounds), a showing that the 'prior art would have suggested making the specific molecular modifications necessary to achieve the claimed invention' was also necessary."

Still further, the compounds of the present invention exhibit pharmacological properties over the compounds in Bold and Manley. Such properties are demonstrated, for example by the compounds of formula I having IC<sub>50</sub> values in the range of 0.001 to 0.1  $\mu$ M, activity against VEGF receptor tyrosine kinases; see bottom of page 8 to page 9 of the specification. The rejection is respectfully traversed.

Rejections under 35 USC §112

The Examiner has rejected all of the claims as being non-enabling for Z being equal to N, which has been cancelled from the claims. The rejection is therefore traversed.

The Examiner has rejected claim 30 as being non-enabling for making solvates and hydrates of the claimed compounds. Claim 30 [31] has been amended to delete the language. Withdrawal of the rejection is requested.

Claims 26 and 29 [actually 27 and 30] have been rejected under 35 USC § 112 as being non-enabling for all treatments of the human or animal body which respond to an inhibition of VEGF-receptor tyrosine kinase activity. The rejection is respectfully traversed.

It is well established that if *in vitro* tests correlate to a claimed method of invention, it constitutes a working example sufficient to provide enablement of the claims. See, e.g., MPEP 2164.02. This is particularly the case in instances where the state of the art recognizes such a correlation. In the present case, the compounds of the invention were shown to have activity against VEGF-receptor tyrosine kinases. Such activity has been shown to have a correlation to fighting a number of diseases, such as those listed by the Examiner. There is therefore a clear corollary recognized in the art between the activity demonstrated in the specification and the resulting potential as a therapeutic against proliferative disease. Withdrawal and reconsideration are respectfully requested.

The phrase "if necessary" has been deleted from claim 31 [32]. Withdrawal and reconsideration are respectfully requested.

Should the Examiner have any questions, please contact the undersigned attorney.

Respectfully submitted,



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